HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 985 OF 2001

Navin Chandra Pant,
Aged about 74 years,
S/o late Shri Dharmanandan Pant,
R/o 22-Maitri Apartments,
A3-Paschim Vihar, New Delhi. .....Petitioners.

Vs.

1. State of Uttaranchal,
2. Shri K.P. Singh, S/o not known to the petitioner,
Former Inspector Incharge (I.O. in case Crime No. 1603/99, under Section 379 I.P.C.)
Police Station- Haldwani, District- Nainital.
Through Director General of Police, Uttar Pradesh.
.....Opp. Parites.

Hon'ble Rajesh Tandon, J.

Heard Sri Paresh Tripathi, counsel for the applicant/petitioner and A.G.A. for the State.

2. By the present application filed under section 482 of the Code of Criminal Procedure, applicant has prayed for quashing the Criminal Case No. 1016 of 2006 pending in the Court of Judicial Magistrate, Haldwani State Vs. Navin Chandra Pant under Section 182 of the Indian Penal Code, P.S. Haldwani as well as for quashing the proceedings of the aforesaid case.

3. Briefly stated, the applicant has lodged an F.I.R. on 10.09.1999 for the loss of his purse. The F.I.R. shows to the following effect:

> सेवा में थाना अध्यक्ष हल्द्वानी नैनीताल श्रीमान निवेदन है कि आज अल्मोड़ा से दिल्ली जा रहा हूॅ। रोडवेज बस स्टेशन पर मैं दिल्ली वाली बस 6844 के बाहर इन्तजार में था। उसी समय किसी जेबकतरे ने मेरा चमड़े का पर्स निकाल लिया। पर्स में लगभग 2500/– रूपये थे और प्रेस कार्ड भी था। कृपया जाच करके दोषी को दंड दिलाएं। धन्यवाद भवदीय ह0 अस्पष्ट नवीन चन्द्र 22 मैत्री एपार्टमेंट्स ए / 3 पश्चिमी बिहार नई दिल्ली 110063 फोन नम्बर 5583509, 5583804.

4. Respondent no. 2, who was duty bound to investigate the matter on the basis of the F.I.R. lodged by the applicant has submitted final report on the same day i.e. 10.09.1999 without any investigation to the following effect:

> ''श्रीमान जी,
>
> निवेदन है कि दिनांक 10.9.99 की वादी श्री नवीन चन्द्र पन्त उपरोक्त थानाहाजा पर अपना पर्स चोरी हो जाने के सम्बन्ध में मुकदमा पंजीकृत कराया। विवेचना मुझ एस आई द्वारा की गयी तो अब तक की तमामी तफतीश बयान गवाहन निरीक्षण घटना स्थल से मात्र गुमसुदगी पायी गयी पर्स जहॉ पर निकला पर गिर गया जिसकी तलाश जारी रखते हुए विवेचना द्वारा FR समाप्त की जाती है चोरी होना नही पायी गयी FR स्वीकार करने की कृपा करे।''

5. In pursuance of the aforesaid final report case under Section 379 of the India Penal Code was droped. However, immediately thereafter, a case was instituted

against the application under Section 182 of the Code of Criminal Procedure. The case was registered as Case No. 1016 of 2000. Section 182 of the Code of Criminal Procedure reads as under:

> *"182. Offences committed by letters, etc. -(1) Any offence which includes cheating may, if the deception is practiced by means of letters or telecommunication messages, be ignored into trial by any Court within whose local jurisdiction such letters or messages were sent or were received; and any offence of cheating and dishonestly inducing delivery of property ay be inquired into or tries by a Court within whose local jurisdiction the property was delivered by the person deceived or was received by the accused person.*
>
> *(2) Any offence punishable under section 494 or section 495 of the Indian Penal Code (45 of 1860) may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or the offender last resided with his or her spouse by the first marriage, [or the wife by the first marriage has taken up permanent residence after the commission of the offence.]"*

6. It appears that no investigation has proceeded on the A perusal of the F.I.R. lodged by the applicant and on the same day, the final report was submitted by the respondent no. 2. There was no material for proceeding

against the applicant under Section 182 of the Cr.P.C. as there has been neither any recovery of the purse nor there was any material to show that the same has been lost by the applicant himself. The action, therefore, while initiating the proceedings under Section 182 of the Cr.P.C. was wholly illegal and cannot be said to be in good-faith against the applicant. Further the applicant has never believed that the information is false as admittedly the purse was lost and as such Section 182 cannot be said to be attracted.

7. In view of the above, proceedings taken under Section 182 of the Code of Criminal Procedure in Case Crime No. 1016 of 2000 are quashed.

8. Petition filed under Section 482 of the Code of Criminal Procedure is allowed.

(Rajesh Tandon, J.)

8.12.2006

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